

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

ADRIAN JENKINS,

Plaintiff,

v. 6:14-cv-44

SUSAN M. WALKER and
DAVID BIKOFF,

Defendants.

ORDER

Adrian Jenkins has appealed this Court's Order that denied the above motions. *See* ECF No. 14. The Court construes Jenkins's notice of appeal as a request for a Certificate of Appealability ("COA"). *See Edwards v. United States*, 114 F.3d 1083, 1084 (11th Cir. 1997).

"Before an appeal may be entertained, a prisoner who was denied habeas relief in the district court must first seek and obtain a COA" *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003); *see* 28 U.S.C. § 2253(c). The Court will issue a COA "where a petitioner has made a substantial showing of the denial of a constitutional right." *Miller-El*, 537 U.S. at 336; *see also* 28 U.S.C. § 2253(c)(2). Petitioner "must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Id.* (internal quotations omitted).


When the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right *and* that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.

Slack v. McDaniel, 529 U.S. 473, 484 (2000) (emphasis added).

The Court adopted the Magistrate Judge's Report and Recommendations ("R&R"). ECF No. 12. The R&R did not reach Jenkins's underlying constitutional claim because the Magistrate Judge found that Jenkins had failed to show any actual injury. ECF No. 9 at 3. The Court agreed in its adoption of the R&R, noting that "Plaintiff sets forth no facts which reveal that he suffered an actual injury" ECF No. 12 at 1. Therefore, because reasonable jurists would not disagree whether Jenkins's petition should have been resolved differently, the Court finds that a COA should not issue.

The Court **DENIES** Jenkins's motion.

This 27th day of August 2014.


B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA